

# The Flinn Report

Illinois

# Regulation

Claire B. Eberle, Editor

700 Stratton Bldg., Springfield IL 62706

**Joint Committee on Administrative Rules**

Illinois General Assembly

217/785-2254

[www.ilga.gov/commission/jcar](http://www.ilga.gov/commission/jcar)

VOL. 30

May 12, 2006

Issue 19

*Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation is designed to inform and involve the public in changes taking place in agency administration.*

## New Regulations

### ELDER RIGHTS PROGRAM

The DEPARTMENT ON AGING adopted amendments for "Elder Rights" (89 Ill Adm Code 270), effective 4/28/06, to implement Public Acts 93-300 and 93-301, both of which amend the Elder Abuse and Neglect Act by expanding DoA's responsibility to establish and coordinate specified training and education programs concerning elder abuse and to make information available to the public concerning financial exploitation of the elderly. Persons who perform paramedic or emergency medical technician duties are added to the "mandated reporter" definition. In addition, the rulemaking requires the Department to: (1) coordinate a training program on the unique nature of elder abuse with other agencies and councils, including the Attorney General, the State Police, the "State Triad" (a coalition of law enforcement entities, human service agencies, and community groups that focuses on reduction of crime and victimization of the elderly), and similar agencies; (2) solicit financial facilities to dispense DoA materials providing general public warning of financial exploitation and related financial fraud or abuse of the elderly; and (3) work with utility com-

panies to send notices in utility bills to explain to persons 60 years and older their rights regarding telemarketing and home repair fraud. The provision that all follow-up services provided to an abuse, neglect, or exploitation (ANE) victim will be reviewed quarterly by the provider agency for up to one year to determine if the service plan should be continued or modified is revised to allow the Department to grant a waiver extending the service care plan for up to one additional year if necessary. The Department of Public Aid's name change to the Department of Healthcare and Family Services is also reflected in these amendments. Small businesses, small municipalities, and not-for-profit corporations that provide services to elderly ANE victims are affected by this rulemaking.

Questions/requests for copies: Karen Alice Kloppe, DoA, 421 E. Capitol Ave., #100, Springfield IL 62701-1789, 217/782-2844.

### SPECIAL EDUCATION

The STATE BOARD OF EDUCATION adopted amendments for "Special Education Facilities Under Section 14-7.02 of the School Code" (23 Ill

(cont'd next page)

## Proposed Regulations

### GENETIC COUNSELORS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed a new Part titled "Genetic Counselor Licensing Act" (68 Ill Adm Code 1251). The rulemaking implements Public Act 94-661, which creates a procedure for licensing genetic counselors. Genetic counselors provide services, by referral only, to address the physical and psychological issues associated with the occurrence, risk of occurrence, or recurrence of a genetic disorder, birth defect, disease, or potentially inherited or genetically influenced condition in an individual or a family. The rulemaking codifies an application process, requirements for genetic counselors (including requirements for temporary licensure), fee structure (including an initial \$150 licensure application fee, initial \$50 licensure fee for temporary licensure, \$75 licensure renewal fee (\$75), and licensure restoration fees), licensure renewal and restoration requirements, licensure by endorsement provisions, and a variance request procedure. All genetic counselor licensure renewal applicants must have completed 30 hours of continuing education credit during the 2 years preceding application for renewal. The rulemaking details what is considered approved continuing education and lists approved continuing education sponsors and programs. Genetic counselors were not required to be licensed prior to the passage of PA

(cont'd page 3)

**NEW REGULATIONS:** Rules adopted by agencies this week.

**PROPOSED REGULATIONS:** Rules proposed by agencies this week, commencing a 45-day First Notice period. Public comments must be accepted by the agency for the period of time indicated.

☞: Symbol designating rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.

**QUESTIONS/COMMENTS/RULE TEXT:** Direct mail or phone calls to the agency personnel listed below each summary. Providing volume and issue number of The Flinn Report or the Illinois Register will expedite the process. Some agencies charge copying fees. However, copy requests do not have to be made under the Freedom of Information Act.

# New Regulations

---

Adm Code 401), effective 4/25/06. The Part title and rule text strike reference to “nonpublic” schools because these regulations are also applicable to public out-of-state schools and other facilities owned or operated by public entities (e.g., regional superintendents of schools) that serve disabled students under Section 14-7.02 of the School Code. Cross-references to special education rules in Part 226 replace some existing text, and an added definition of “provider” distinguishes between those offering educational, residential-only, or combination programs. The same provider’s programs conducted at separate facilities will be evaluated separately, and procedures for on-site inspections of certain out-of-state programs are listed. Renewed program approvals granted for the 2006-2007 school year or later will be valid for 2 school years. Other covered topics include Board and district notification concerning provider location and personnel changes, required student record content, and the specific prohibition against using substitute teachers to open new classrooms at the beginning of a school year. Changes since 1<sup>st</sup> Notice require that facilities subject to the Health/Life Safety Code for Public Schools (23 Ill Adm Code 180) include their regional superintendent’s most recent inspection report in their application, specify that all of a provider’s programs will be placed on the same review cycle for program renewals, and state that a head teacher serving in place of a principal in an attendance center having fewer than 4 teachers must hold a supervising endorsement. Those affected by this rulemaking include small businesses and not-for-profit corporations that desire to become special education program providers or residential facilities.

Questions/requests for copies: Beth Hanselman, ISBE, 100 N. First St., Springfield IL 62777-0001, 217/782-5589.

## SUPPORTIVE LIVING

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted amendments for rules titled “Specialized Health Care Delivery Systems” (89 Ill Adm Code 146), effective 5/1/06, to move the supportive living facility (SLF) program contained in this Part from its current demonstration status to a permanent component of the State’s assistance programs in accordance with Public Act 94-342. The rulemaking that established the demonstration program was adopted in the 3/18/05 issue of the *Illinois Register* and was covered in the *Flinn Report* of the same date. This rulemaking remains substantially the same. The amendments adopted this week include adding requirements for an SLF to follow (e.g., notify local law enforcement and facility residents, develop service plan, provide supervision) when an identified sex offender is admitted to the facility (Public Act 94-163), allow admission of a resident who is transferring between SLFs or who is coming directly from a nursing facility without conducting a screening for need, require that all residents’ or applicants’ names be checked against sex offender databases, and specify that direct care staff and direct care subcontractors be trained in infection control. In addition, pursuant to Public Act 94-665, the rulemaking provides that all employees (previously, certified nursing assistants) who have contact with patients or who have access to resident living quarters or resident financial, medical, or personal records must undergo a criminal history background check. Service plans must be individualized to address the health and behavior needs of each patient; a licensed practical nurse may sign an initial assessment (previously, registered nurse); and the requirement that a quarterly utilization data report be submitted to the Department is stricken. Also, emergency contingency plans must be reviewed by local emergency responders, such as fire departments and ambulance

services. Changes since 1<sup>st</sup> Notice add an address for the National Fire Protection Association, which publishes the *Life Safety Code*. An additional change requires an emergency response entity to direct its recommendations directly to the SLF after reviewing an SLF’s emergency contingency plan and requires the SLF to make plan changes as appropriate. Those affected by these amendments include supportive living facilities.

## HOSPITALS

HFS also adopted an amendment for “Hospital Services” (89 Ill Adm Code 148), effective 5/1/06, to provide additional funding under critical hospital adjustment payments (CHAP) to certain high volume Medicaid providers. A companion emergency rulemaking became effective 1/1/06 and was published in the 1/13/06 *Illinois Register*. This week’s rulemaking as originally proposed affected only St. Anthony’s Hospital in Alton. A change since 1<sup>st</sup> Notice additionally provides increased funding for Children’s Memorial Hospital in Chicago in accordance with the January emergency rulemaking.

## CHILD SUPPORT ENFORCEMENT

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted an amendment for “Child Support Enforcement” (89 Ill Adm Code 160), effective 5/1/06, to clarify when either the client (custodial parent) or the non-custodial parent may request a child support amount redetermination, release from an administrative support order, or modification of such an order.

Questions/requests for copies of the 3 HFS rulemakings above: Joanne Scattoloni, DFHS, 201 S. Grand Ave. E., 3<sup>rd</sup> Fl., Springfield IL 62763-0002, 217/524-0081.

## RIVERBOAT GAMBLING

The ILLINOIS GAMING BOARD

# New Regulations

---

adopted amendments for “Riverboat Gambling” (86 Ill Adm Code 3000), effective 4/26/06, to allow riverboat licensees to utilize digitally recorded channels instead of the currently specified analog recorded channels in their required closed circuit television systems that provide surveillance on riverboats. The digital channels must meet certain standards such as a non-editable format and other security safeguards.

Questions/requests for copies: Jeannette P. Tamayo, IGB, 160 N. LaSalle, Ste. 300-S, Chicago IL 60601, 312/814-4641, Fax 312/814-8798, e-mail: JTamayo@revenue.state.il.us

## HORSE RACING

The ILLINOIS RACING BOARD adopted an amendment for “Racing Rules” (11 Ill Adm Code 1318), effective 5/1/06, to make failure to take to the inside where clearance exists a violation of harness racing rules just as failure to take to the outside is currently a violation. Also, an extended break will be considered a violation. This change pertains to the requirement that when a horse or horses break from their gait in trotting or pacing, their driver shall at once, where clearance exists, take such horse to the inside or outside and pull it to its gait. A change since 1<sup>st</sup> Notice adds a definition of “extended break”,

which means any break in gait that lasts 1/16 mile or more.

Questions/requests for copies: Mickey Ezzo, IRB, 100 W. Randolph, Ste. 7-701, Chicago IL 60601, 312/814-5017, e-mail: mickey\_ezzo@irb.state.il.us

## RADIOACTIVE MATERIAL

The ILLINOIS EMERGENCY MANAGEMENT AGENCY adopted amendments for the following 4 Parts, all effective 4/28/06: “Licensing of Radioactive Material” (32 Ill Adm Code 330), “Medical Use of Radioactive Material” (32 Ill Adm Code 335), “Radioactive Materials Transportation” (32 Ill Adm Code 341), and “Radiation Safety Requirements for Industrial Radiographic Operations” (32 Ill Adm Code 350). IEMA states that all 4 rulemakings reflect current federal regulations for medical use of radioactive materials. Part 330 amendments add definitions of “authorized nuclear pharmacist” and “protective actions” taken by the public, expand or lengthen certain record retention requirements, and require that radioactive material be exported pursuant to a general license only in accordance with federal standards. Transfer of material to an authorized licensee for waste collection purposes is explained, also. Other covered topics include licensure application procedures, nuclear pharmacy radiation

safety officer training, the Radiation Safety Committee, use of radioactive material in exempt quantities, recordkeeping, and license renewals. A new section details termination requirements for specific licenses and use locations. License amendment procedures, reciprocity, and nuclear pharmacist training are covered, also. Extensive Part 335 amendments include new sections concerning use of radioactive materials in emerging medical technologies, “remote afterloader units”, intravascular brachytherapy, and gamma stereotactic radiosurgery. Other covered topics include provisions for protecting human research subjects, reporting radiation use on an embryo/fetus or nursing child, and required written directives for use of specified types of radiation. Part 350 amendments update several definitions and add a definition of “radiographer certification”. Part 341 amendments update incorporations by reference of federal regulations to reflect renumbering of certain sections in the *Code of Federal Regulations* (CFR) and add CFR references concerning quality assurance. Those affected by these rulemakings include persons licensed to use radioactive material on humans.

Questions/requests for copies: Kevin T. McClain, IEMA, 1035 Outer Park Dr., Springfield IL 62704, 217/785-9880, TDD 217/782-6133.

# Proposed Regulations

---

94-661. Individuals applying for licensure will be impacted by initial licensure application and licensure renewal fee requirements and newly required continuing education requirements.

Questions/requests for copies/comments until 6/26/06: Barb Smith, DFPR, 320 W. Washington, 3<sup>rd</sup> Fl., Springfield IL 62786, 217/785-0813, Fax 217/557-4451.

## TELEPHONE ASSISTANCE

The ILLINOIS COMMERCE COMMIS-

SION proposed amendments for “Telephone Assistance Programs” (83 Ill Adm Code 757) updating incorporations by reference of the most recent Federal Commerce Commission (FCC) regulations governing the Lifeline and Link-Up telephone assistance programs. (Lifeline eligible customers receive a discount on basic subscriber line service; Link-Up eligible customers receive discounted service installation.) The only substantive changes made as a result of the incorporations prohibit eligible phone companies from charging Lifeline customers a monthly

number-portability charge and add the National School Lunch Free Lunch Program and the Temporary Assistance to Needy Families program to the list of programs that eligibility for which makes a customer eligible for Lifeline and Link-Up. The rulemaking also reflects a decrease from \$5.25 to \$1.75 (plus the amount of the carrier’s end user common line charge, as set by the FCC) in the amount of monthly support given to low-income customers. Additionally, phone companies may not collect a service deposit to initiate Lifeline if the customer volun-



# Proposed Regulations

tarily elects toll-blocking and toll-control services (now, toll-blocking). Small businesses that are phone companies will be affected by this rulemaking.

Questions/requests for copies/comments until 6/26/06: Elizabeth Rolando, Chief Clerk, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/782-7434.

## DEBT COLLECTION BOARD

The DEBT COLLECTION BOARD proposed amendments to its rules titled "State Agency Accounts Receivable" (74 Ill Adm Code 910). The rulemaking states that the Board's policies in this Part do not embrace accounts receivable to be referred to the Department of Revenue's Debt Collection Bureau, which since 2003 has specific collection duties under Section 10 of the Illinois State Collection Act of 1986. Non-governmental entities that owe money to the State of Illinois may be affected by this rulemaking.

Questions/requests for copies/comments until 6/26/06: Gina Wilson, DMCS, 720 Stratton Bldg., Springfield IL 62706, 217/785-1793.

## STATE LIBRARY

The SECRETARY OF STATE proposed amendments to "Illinois State Library, Library Services Division" (23 Ill Adm Code 3010) concerning application for a State Library courtesy card. Applicants will no longer be required to include their social security number on the form. A new application form for a regular State Library card is added as well. (A "regular" borrower's card is used by State government officials and employees to borrow items directly from the State Library's circulating system. A "courtesy" borrower's card is used by the general public, retired State officials, and retired State employees.)

Questions/requests for copies/comments until 6/26/06: Joseph Natale, Illinois State Library, 300 S. 2<sup>nd</sup> St., Springfield IL 62701-1796, 217/558-4185, e-mail: jnatale@ilsos.net

## ELECTRONIC COMMERCE

The SECRETARY OF STATE proposed amendments to rules titled "Illinois Electronic Commerce Security Act" (14 Ill Adm Code 100) and DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed a new Part titled "Electronic Commerce Security Act" (14 Ill Adm Code 105) concerning security procedures for digital signature technology. Both rulemakings address public key infrastructure (PKI) systems under the Illinois Electronic Commerce Security Act. Under the Act, the SOS certifies private entities as able to conduct electronic digital signature transactions, while CMS does likewise for governmental entities. The SOS amendments clarify a statutory provision that no person is required to employ electronic records or signatures and also define "non-State agency" as a governmental unit other than a State agency that will be treated as a person under the Act if it seeks certification of a security procedure by the SOS under the Act. New Part 105 prescribes protocols for CMS to issue certificates (records that identify the certification authority issuing it, names a subscriber or electronic device under the control of a subscriber, contains a public key that corresponds to a private key under the control of the subscriber, etc). Besides terms defined in current SOS rules, CMS defines the terms "rekey" (a process for securely regenerating signature verification or encryption data), "public key infrastructure" (a secure framework for exchanging information based on public key cryptography), and "state certification authority" (CMS in its role of issuing certificates to governmental entities). Standards adopted by CMS for recognition of qualified security procedures generally mirror those established by SOS (compliance with statutory minimums and as designated by a recognized

industry organization). Audits must be performed by the Auditor General rather than a private firm and emphasize such areas as identification and authentication, initial registration, "rekey" after revocation, operational protocols, physical and personnel security measures, and other technical security controls. Unlike the SOS rules, bonding and security requirements are not imposed by CMS, and no administrative appeal procedures are detailed for decertification. Provisions for recognition of foreign public sector certificate authorities are listed. Those entities that use public key cryptography for exchanging information may be affected by these rulemakings.

Questions/requests for copies/comments until 6/26/06: Nathan Maddox for Part 100, Secretary of State's Office, 298 Howlett Bldg., Springfield IL 62701, 217/785-3094 and Gina Wilson for Part 105, DCMS, 720 Stratton Bldg., Springfield IL 62706, 217/785-1793.

## WILD TURKEY HUNTING

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to "The Taking of Wild Turkeys - Fall Gun Season" (17 Ill Adm Code 715) to update turkey hunting for the 2006 season. The rulemaking changes various provisions to allow online and telephone application for turkey hunting permits and also clarifies that landowner/tenant applications must be submitted using the official application form.

## LATE-WINTER DEER HUNTING

DNR also proposed amendments to "Late-Winter Deer Hunting Season" (17 Ill Adm Code 680) to update the 2007 winter season. The rulemaking clarifies that electronic applications are acceptable. Any unfilled firearm or muzzleloader permit from the previous season will be valid only in the county for which it was issued and only if that

# Proposed Regulations

county is open to the late-winter deer hunting season. Unfilled special hunt area permits from the previous season are not valid during the late-winter deer season. However, a new specific late-winter deer season permit may be issued for any open county and special hunt area if the individual reappplies. The changes clarify that hunters with unfilled muzzleloading only permits from a previous season are still restricted to the use of muzzleloaders during the late-winter deer season. Those hunters possessing unfilled landowner/tenant permits from a previous season are still restricted to hunting only on their land, and the permit is valid only if that county is open for the late-winter deer season. Those hunters possessing valid unfilled firearm permits from previous seasons are allowed to use any legal shotgun, muzzleloader, or pistol, and all hunters are restricted to harvesting antlerless-only deer during the late-winter deer season even when using an unfilled either-sex permit from the previous season. The rulemaking allows the sub-

mission of multiple individual applications and payment at the same time for purposes of conducting or participating in a group hunt. Also, a permittee may attach a piece of paper to the deer carcass with the confirmation number on it if the tag's condition precludes writing the number on it.

## UPLAND GAME HUNTING

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to "Cock Pheasant, Hungarian Partridge, Bobwhite Quail and Rabbit Hunting" (17 Ill Adm Code 530) in order to make site-specific changes. Several of the proposed amendments involve changing Johnson-Sauk Trail State Park from a controlled daily-drawing site to a reservation site (with corresponding changes to hunting dates, times, reservations, and other site-specific regulations) along with opening the site to the youth pheasant hunting program. The rulemaking also repeals all the regulations in this Part concerning controlled daily-drawing for pheasant hunting sites because there no longer are any sites in this category. The Des Plaines Conservation Area, Eldon

Hazlet State Park, Iroquois County Conservation Area, Lee County Conservation Area (Green River), Moraine View State Park, and Wayne Fitzgerald State Park will no longer issue permits on a first-come, first-served basis but rather will hold daily drawings at the conclusion of check-in time. Additional amendments strike specific references to various types of shot sizes and manufacturers in favor of generic language stating that shot must be non-toxic and ballistically equivalent to No.5 shot. The rulemaking also specifies that reservations for youth pheasant hunting permits will be accepted until 24 hrs. (currently 48 hrs.) before the hunt date. Lastly, amendments makes further site-specific changes at numerous additional DNR sites.

Questions/requests for copies/comments concerning the 3 DNR rulemakings above until 6/26/06: Jack Price, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

## Second Notices

The following rulemakings were moved to second notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be considered at JCAR's June 13, 2006 meeting in Chicago.

### DEPARTMENT OF CHILDREN AND FAMILY SERVICES

"Licensing Standards for Group Day Care Homes" (89 Ill Adm Code 408) proposed 11/14/05 (29 Ill Reg 18207)

"Licensing Standards for Day Care Homes" (89 Ill Adm Code 406) proposed 11/14/05 (29 Ill Reg 18180)

"Licensing Standards for Youth in Transitional Housing Programs" (89 Ill Adm Code 409) proposed 12/2/05 (29 Ill Reg 19322)

### DEPT OF AGRICULTURE

"Illinois Pesticide Act" (8 Ill Adm

Code 250) proposed 11/14/05 (29 Ill Reg 18175)

### WORKERS' COMPENSATION COMMISSION

"Miscellaneous" (50 Ill Adm Code 7110) proposed 2/10/06 (30 Ill Reg 1828)

### ILLINOIS STUDENT ASSISTANCE COMMISSION

"General Provisions" (23 Ill Adm Code 2700) proposed 2/17/06 (30 Ill Reg 2119)

"Illinois National Guard (ING) Grant Program" (23 Ill Adm Code 2730) proposed 2/17/06 (30 Ill Reg 2142)

"Grant Program for Dependents of Cor-

rectional Officers" (23 Ill Adm Code 2731) proposed 2/17/06 (30 Ill Reg 2151)

"Grant Program for Dependents of Police or Fire Officers" (23 Ill Adm Code 2732) proposed 2/17/06 (30 Ill Reg 2158)

"Illinois Veteran Grant (IVG) Program" (23 Ill Adm Code 2733) proposed 2/17/06 (30 Ill Reg 2165)

"Monetary Award Program (MAP)" (23 Ill Adm Code 2735) proposed 2/17/06 (30 Ill Reg 2174)

"Silas Purnell Illinois Incentive for Access (IIA) Program" (23 Ill Adm Code 2736) proposed 2/17/06 (30 Ill Reg 2181)

# The Flinn Report

*Illinois General Assembly*

Illinois

# Regulation

Joint Committee on Administrative Rules  
700 Stratton Building Springfield IL 62706

PRSRT STD

U.S. Postage

PAID

Springfield IL

Permit NO. 870

## Second Notices Cont.

“Robert C. Byrd Honors Scholarship Program” (23 Ill Adm Code 2755) proposed 2/17/06 (30 Ill Reg 2186)

“Merit Recognition Scholarship (MRS) Program” (23 Ill Adm Code 2761) proposed 2/17/06 (30 Ill Reg 2194)

“Minority Teachers of Illinois (MTI) Scholarship Program” (23 Ill Adm Code 2763) proposed 2/17/06 (30 Ill Reg 2198)

“Illinois Future Teacher Corps (IFTC) Program” (23 Ill Adm Code 2764) proposed 2/17/06 (30 Ill Reg 2207)

“Illinois Special Education Teacher Tuition Waiver (SETTW) Program” (23 Ill Adm Code 2765) proposed 2/17/06 (30 Ill Reg 2217)

“Teach Illinois Scholarship Program” (23 Ill Adm Code 2768) proposed 2/17/06 (30 Ill Reg 2225)

“Child Welfare Student Loan Forgiveness Program” (23 Ill Adm Code 2769) proposed 2/17/06 (30 Ill Reg 2234)

“Student to Student (STS) Program of Matching Grants” (23 Ill Adm Code 2770) proposed 2/17/06 (30 Ill Reg 2243)

### **CARNIVAL-AMUSEMENT SAFETY BOARD**

“Carnival Amusement Ride Safety Act” (56 Ill Adm Code 6000) proposed 12/16/05 (29 Ill Reg 20119)

### **DEPT. OF FINANCIAL AND PROFESSIONAL REGULATION**

“Consumer Installment Loan Act” (38 Ill Adm Code 110) proposed 1/27/06 (30 Ill Reg 1173)